

REMARKS

The present Amendment is in response to the Official Action mailed February 4, 2009. Claims 1, 4, 5, 7, 8, and 15 have been amended, and claims 3 and 6 have been canceled herein. No new claims have been added. Thus, claims 1, 2, 4, 5, and 7-15 remain pending in the present case. The following sets forth Applicants' remarks pertaining to the currently pending claims and the outstanding Action.

As an initial matter, Applicants respectfully thank the Examiner for noting in the Action that claim 6 was merely objected to as being dependent upon a rejected base claim, but allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims. In the present Amendment, Applicants have amended independent claim 1 to include all of the limitations of dependent claim 6, as well as the claim that claim directly depends from, dependent claim 3. As such, Applicants respectfully submit that independent claim 1, as amended, constitutes allowable subject matter. Applicants have also amended independent claim 8 in a similar fashion. Although a similar dependent claim depending from independent claim 8 (or an intervening claim) was not present in the previously presented claims, Applicants respectfully submit that independent claim 8, as amended, also constitutes allowable subject matter. Although not specifically discussed above, dependent claims 2, 4, 5, 7, and 9-14 also constitute allowable subject matter based on their proper dependence from one of independent claims 1 or 8, or an intervening claim.

With regard to independent claim 15, Applicants note that such claim was rejected in the Action under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 5,269,790 to Funatsu ("Funatsu") in view of U.S. Patent No. 4,296,751 to Blake, III et al. ("Blake"), and in view of U.S. Patent

Application Publication No. 2005/00033430 to Powers *et al.* ("*Powers*"). Essentially, the Examiner asserted that *Funatsu* discloses a device comprising an applicator, but fails to disclose a device further comprising a first retaining clip, a second retaining clip, and an enclosure. To support the two retaining clip limitations, the Examiner cited *Blake* as teaching a device comprising an applicator and a magazine system including a first retaining clip and a second retaining clip, where the retaining clips directly engage with the first ends of the applicator arm simultaneously in order to provide an applicator having automatically advanced clips. Still further, the Examiner cited *Powers* as teaching an enclosure capable of holding a set of surgical instruments that is made from nonpermeable material. The Examiner asserted that it would have been obvious to one having ordinary skill in the art at the time of the present invention to combine the three references in arriving at the invention set forth in previously presented claim 15.

Although Applicants respectfully disagree with the Examiner's assertions regarding the obvious nature of previously presented independent claim 15, such claim has been amended in the present response to make it clear that the first retaining clip be directly and removably secured to *only* a first end of the first applicator arm and that the second retaining clip be directly and removably secured to *only* a first end of the second applicator arm. This is in contrast to that which is shown in *Blake*, where, as the Examiner acknowledged, the clips are directly engaged with the first ends of both applicator arms simultaneously. Thus, even the combination of *Funatsu*, *Blake*, and *Powers* fails to disclose each and every one of the limitations set forth in independent claim 15, as amended. Therefore, Applicants respectfully submit that such amendments

overcome the rejection set forth in the Action, and claim 15 constitutes allowable subject matter.

Therefore, in light of the foregoing, Applicants respectfully request allowance of each and every one of the currently pending claims. As it is believed that all of the rejections set forth in the Official Action have been fully met, favorable reconsideration and allowance are earnestly solicited. If, however, for any reason the Examiner does not believe that such action can be taken at this time, it is respectfully requested that he telephone Applicants' attorney at (908) 654-5000 in order to overcome any additional objections which he might have.

If there are any additional charges in connection with this requested amendment, the Examiner is authorized to charge Deposit Account No. 12-1095 therefor.

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